

Eligible Applicant Documentation

Simply stated, North Kern is a local public agency, specifically a “special district”, as defined in Appendix B of the 2014 IRWM Drought Guidelines. As such, the following questions are relevant to North Kern as an eligible applicant for the 2014 IRWM Drought Solicitation Program.

What is the statutory or other legal authority under which the applicant was formed and is authorized to operate?

The statutory authority under which North Kern was formed and is authorized to act is the California Water Storage District (WSD) Law set forth at Division 14 (commencing at Section 39000) of the California Water Code (CWC). Statutory and regulatory authority, applicable to each of the district members of the Poso Creek IRWM Group (including North Kern), is covered in Section 2.1 of the Poso Creek 2014 IRWM Plan Update (Plan Update).

Does the applicant have legal authority to enter into a grant agreement with the State of California?

The specific authority granting North Kern to enter into such funding contracts with the State of California is found at CWC Sections 43151, 44000 and 44001, provided as follows:

§ 43151. Contracts.

The board may enter into any agreement with the United States or with any state, county, district, public corporation, or municipality of any kind, for a purpose appertaining to or beneficial to the project of the district, and it may do any acts necessary or proper for the performance of the agreement.

§ 44000. Authority to contract with the state, the department, other districts or the United States.

Any district may cooperate and contract with the state, the department, any other district, or the United States under any laws of the state or the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or under any other act of Congress heretofore or hereafter enacted authorizing or permitting the cooperation or contract.

§ 44001. Authorized purposes.

The cooperation and contract may be for any or all of the following purposes:

- (a) Construction, acquisition, purchase, extension, operation, or maintenance of works for irrigation, drainage, storage, flood control, generation and distribution of hydroelectric energy incidental thereto, or any of these.
- (b) A water supply.
- (c) Assumption as principal or guarantor of indebtedness to the state, the department, any other district, or the United States.
- (d) To carry out the terms of any contract between the district and the state, the department, any other district, or the United States.

Based on these authorities, clearly North Kern has the legal authority to enter into such funding contracts.

Describe any legal agreements among partner agencies and/or organizations that ensure

performance of the Proposal and tracking of funds.

As stated in Section 2.2 of the Plan Update, the Poso Creek IRWM Regional Water Management Group (RWMG) has a signed Memorandum of Understanding (MOU) that formalized the RWMG's governance structure (executed on May 12, 2010). The MOU includes a process for formulating an annual budget, voting on budgeted expenses to be shared by the district participants, tracking of budgets and expenses, and distributing the expenses incurred for and by the RWMG. In a general sense, the IRWM Group is comprised of the governing RMWG, other 'Stakeholders' which includes members that are directly involved with or potentially affected by the planning and management efforts of the RWMG, and 'Interested Parties' which includes any public or private entities, agencies, organizations, or individuals that have interested in the Poso Creek planning process. The MOU contains a provision that allows participants of the RWMG, Stakeholders, and all other Interested Parties to form agreements to cost share specific projects in addition to the general planning activities of the RWMG.

For this proposal, the Applicant, North Kern, will be the one Grantee who enters into an agreement with the California Department of Water Resources (DWR). The intent is such that North Kern shall enter into a contract directly with DWR and shall enter into sub-grantee agreements with two Project Sponsors, the Lost Hills Utility District (LHUD) and the City of McFarland (McFarland). North Kern has entered into a similar grant agreement with DWR in the past, on behalf of the Poso Creek IRWM Group, under a Proposition 84 'Round 1' Implementation grant award (Grant Agreement No. 4600009638, contracted June 28, 2012). Under that award, North Kern successfully entered into sub-grantee contracts with the Semitropic WSD, North West Kern Resource Conservation District, Allensworth Community Services District, City of Shafter, and LHUD. As covered in various Round 1 Reporting, and Section 8 of the Plan Update, North Kern has performed well in a Grantee role, tracking funds for multiple projects and tasks using the aforementioned sub-grantee agreements and maintaining open and effective communication with the DWR.